



April 13, 2012

**Via Electronic Submission**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., SW, Room TW-A325  
Washington, DC 20554

**Re: Ex Parte Communication**  
**WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC**  
**Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45; WC Docket**  
**No. 03-109; WT Docket No. 10-208**

Dear Ms. Dortch:

In the FCC's *ICC/USF Transformation Order*, the Commission brought "*all* VoIP-PSTN" (emphasis added) within the section 251(b)(5) framework, and made clear that charges for toll VoIP-PSTN traffic are capped at rates no higher than interstate access during the transition to a system of bill-and-keep.<sup>1</sup> The Commission explicitly stated that LECs that file tariffs to govern situations in which there is no interconnection agreement, must provide that "toll VoIP-PSTN traffic will be subject to charges not more than *originating and terminating* interstate access rates" (emphasis added).<sup>2</sup> Thus, there should be little dispute that, where there is no interconnection agreement, LECs may assess charges no more than interstate access rates on toll calls that either originate or terminate in IP format.

The Commission's decision to cap rates for VoIP-PSTN and PSTN-VoIP toll traffic at interstate access levels during the transition period was designed to address multiple, sometimes opposing interests: encouraging deployment of IP technology; avoiding application of excessive intrastate access charges to IP traffic; affording LECs predictable revenue opportunities; and reducing intercarrier compensation charge disputes. The Commission also emphasized the importance of symmetry in VoIP-PSTN intercarrier compensation to avoid advantaging "providers relying on TDM networks relative to VoIP providers or vice versa."<sup>3</sup> Accordingly, Sprint urges the Commission to reject calls from certain parties<sup>4</sup> that they be allowed to assess originating intrastate access charges for PSTN-VoIP toll traffic, and to re-iterate that state or federal LEC tariffs that propose to assess intrastate access charges on any toll VoIP-PSTN calls (both those that originate in TDM and terminate in IP format, and those that originate in IP and terminate in TDM format) are unlawful and contrary to the *ICC/USF Transformation Order*.

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<sup>1</sup> *Connect America Fund, et al., WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161, released November 18, 2011 ("*ICC/USF Transformation Order*"), paras. 943-945.

<sup>2</sup> *Id.*, para. 961, footnote omitted.

<sup>3</sup> *Id.*, para. 948.

<sup>4</sup> *See, e.g., Petition for Reconsideration and Clarification of the ICC/USF Transformation Order* filed by Frontier and Windstream on December 29, 2011, pp. 21-29.

Prompt, explicit re-iteration of this issue by the FCC is essential. Currently, Sprint and other carriers are opposing or re-litigating tariffs filed by incumbent and competitive LECs that propose to assess intrastate access charges on toll calls that originate TDM and terminate IP in Alabama, Georgia, Louisiana, New Jersey, New York, North Carolina, Ohio, South Carolina, and West Virginia.<sup>5</sup> Some LECs (*e.g.*, TDS-Georgia) that initially filed tariffs that complied with the requirement to apply a rate no higher than the interstate access rate on TDM-IP toll calls subsequently revised those tariffs to apply intrastate access charges on such calls (presumably after reviewing the non-compliant tariffs and petitions filed by other LECs). To ensure consistent treatment of VoIP-PSTN toll traffic across the nation, curtail efforts to perpetuate asymmetrical compensation payments that the Commission sought to eliminate, and prevent the wasteful expenditure of resources in litigating this matter on a state-by-state, LEC-by-LEC basis, Sprint urges the FCC to expeditiously re-iterate that LECs may charge rates no more than interstate access rates on both VoIP-PSTN and PSTN-VoIP toll calls. The FCC should also make it clear that this rule has been in effect since December 29, 2011, and that any LEC that assessed intrastate rates on the calls at issue here must credit any overcharges appropriately.

Pursuant to Section 1.1206 of the Commission's Rules, a copy of this letter is being filed electronically in the above-referenced dockets. If you have any questions, please feel free to contact me at (703) 433-4503.

Sincerely,

*/s/ Norina T. Moy*

Norina T. Moy  
Director, Government Affairs

c: Sharon Gillett  
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<sup>5</sup> It is Sprint's understanding that this same issue is also being litigated in Arizona, Arkansas, California, Colorado, Iowa, Idaho, Illinois, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Montana, North Dakota, Oregon, Texas, Utah, Virginia, Washington, and Wisconsin. Sprint is deeply concerned that unless the FCC acts promptly as requested above, many other ILECs and CLECs currently in compliance with the FCC's rules will revise their tariffs to provide for assessment of intrastate access rates on TDM-IP calls, claiming (incorrectly) lack of clarity as to the FCC's rules.